and order has
ver, it must be

remanded to
together with
Court should
consisting of
entatives and
987, violates
of the United
pportionment
o be used for
uperseded by
constitutional
f the legisla-
on.

s-Appellees

COPY

Office-Supreme Court, U.S.
FILED
FEB 3 1968
JOHN F. DAVIS, CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1967

Nos. 512, 535 AND 619

JOHN A. BURNS, GOVERNOR OF THE STATE OF HAWAII, *Appellant,*

v.

WILLIAM S. RICHARDSON, *et al.,* *Appellees.*

ELMER F. CRAVALHO, *et al.,* *Appellants,*

v.

WILLIAM S. RICHARDSON, *et al.,* *Appellees.*

KAZUHISA ABE, *et al.,* *Appellants,*

v.

WILLIAM S. RICHARDSON, *et al.,* *Appellees.*

ON APPEALS FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

SUPPLEMENTAL BRIEF FOR PLAINTIFFS-APPELLEES

MASAJI MARUMOTO
Attorney for Plaintiffs-Appellees
235 Queen Street
Honolulu, Hawaii

Of Counsel:

CHARLES M. TOGAKI
BARRY J. RUBIN
First National Bank Building
Honolulu, Hawaii



IN THE

Supreme Court of the United States

OCTOBER TERM, 1965
Nos. 318, 323 AND 409

JOHN A. BURNS, Governor of the State of Hawaii,
Appellant,

v.

WILLIAM S. RICHARDSON, *et al.*,
Appellees.

ELMER F. CRAVALHO, *et al.*,
Appellants,

v.

WILLIAM S. RICHARDSON, *et al.*,
Appellees.

KAZUHISA ABE, *et al.*,
Appellants,

v.

WILLIAM S. RICHARDSON, *et al.*,
Appellees.

ON APPEALS FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

SUPPLEMENTAL BRIEF FOR PLAINTIFFS-APPELLEES

SUPPLEMENTAL BRIEF FOR PLAINTIFFS-APPELLEES

Plaintiffs-appellees file this supplemental brief to present to this Court the case of *Toombs* v. *Fortson*, 241 F. Supp. 65 (N.D. Ga., April 1, 1965) as additional authority.

In that case the district court had under consideration:

(a) the reapportionment of the Georgia senate effected by Georgia Laws 1962, Special Session, pp. 7-31; and

(b) a plan for the reapportionment of the Georgia house of representatives proposed in House Bill No. 367 of the 1965 session of the General Assembly and printed in Acts of 1965, p. 127, Georgia Code Annotated, §47-101.

In its deliberation the court noted that the litigation had been "marked by a desire on the part of the state to manage its own affairs to the end of bringing its apportionment in line with constitutional standards" and that substantial progress toward the goal of fair representation had been made.

However, the court held that the apportionment of both houses continued to violate the Equal Protection Clause and must be corrected. That, the court stated, left the "question of when and how."

On the question of *when*, the court set the time limit for corrective action at the end of the 1967-1968 regular session of the General Assembly, or May 1, 1968, whichever may be the earlier, by approving the existing reapportionment of the senate and the proposed reapportionment of the house of representatives for use as interim measures and withholding any action in the case until such time.

On the question of *how*, the court decided that corrective action should be taken "if possible, by the state and not by the court," and be accomplished "within the ambit of the public interest that is involved in allowing the state political and governmental process to function in a manner so as to do as little harm as possible to other areas and functions for which the state is responsible." *Toombs* v. *Fortson*, supra, 71.

Thus, the case supports:

(a) Part III on pages 22-26 of plaintiffs-appellees' brief where it is argued that the legislature of the State of Hawaii is entitled to an opportunity to fashion a reapportionment plan covering both houses of the legislature, if the plan for the reapportionment of the senate in H. B. No. 987, considered together with the existing apportionment of the house of representatives, violates the Equal Protection Clause; and

(b) Part I-D-5 on pages 95-96 of Governor Burns' brief, part V on pages 75-80 of the brief for Kazuhisa Abe, et al., and part I-C on pages 46-48 of the brief for Elmer F. Cravalho, et al., where it is argued that the district court improperly imposed an injunction against the legislators from taking any legislative action, except such as were necessary to organize the respective houses and appropriate funds for the session, until reapportionment legislation satisfactory to the court had been enacted.

Respectfully submitted,

MASAJI MARUMOTO
235 Queen Street
Honolulu, Hawaii
Attorney for Plaintiffs-Appellees

Of Counsel:
CHARLES M. TONAKI
BARRY J. RUBIN
First National Bank Building
Honolulu, Hawaii

February 1, 1966